



W.P(MD)No.4558 of 2017

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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Orders reserved on  
18.08.2022

Orders pronounced on  
24.08.2022

**CORAM**

**THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN**

**W.P(MD)No.4558 of 2017**

**and**

**W.M.P(MD)No.3648 of 2017**

M.Sakunthala

... Petitioner

Vs

1.The District Collector,  
Virudhunagar District,  
Virudhunagar.

2.The Personal Assistant to District Collector,  
(Nutritious Meals),  
Virudhunagar District,  
Virudhunagar.

3.The Commissioner,  
Srivilliputhur Panchayat Union,  
Srivilliputhur,  
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent in Na.Ka.R3/34874/2013, dated 02.03.2017 and quash the same and consequently direct the first respondent to post the petitioner at Keelarajakularaman Panchayat Union Primary School, Virudhunagar District.



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For Petitioner : Mr.P.Balasubramanian  
for Mr.K.S.Muthu

For Respondents : Mr.J.John Rajadurai  
Government Advocate

### **ORDER**

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned order of the first respondent in Na.Ka.No.R3/34874/2013, dated 02.03.2017 and consequently directing the first respondent to post the petitioner at Keelarajakularaman Panchayat Union Primary School, Virudhunagar District.

2. The learned counsel for the petitioner submitted that the petitioner was working as Noon Meal organiser at Panchayat Union Primary School, Keelarajakularaman Village at Virudhunagar District. She was originally appointed as Noon Meal organiser on 10.10.1983 and was working in the same Village from 02.01.1997. She was placed as an additional In-charge of Noon Meal organiser to Government Higher Secondary School, Keelarajakularaman Village from October 2012 and was taking care of both the Schools. Besides that, she was posted as Booth Level Officer by the Election Officer of Virudhunagar District under the control of the first respondent.



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3. On 12.09.2013, after completing her work at the School, she sought permission from the third respondent to leave the Noon Meal Centre at 11.30 a.m. to attend the other work allotted by the first respondent for submitting Forms 6 to 8 of Voters List verification to the Special Deputy Tahsildar (Election), Rajapalayam. During her absence, the second respondent inspected the Noon Meal Centre of the Panchayat Union Primary School, Keelarajakularaman and noticed that she was not available in the Centre and the Kitchen was not maintained neatly. Without knowing the fact that she got permission from the third respondent and went to Rajapalayam for official purpose, the second respondent issued an order of suspension with effect from 12.09.2013 and the order of suspension was affixed in her house on 29.11.2013. Even after the order of suspension on 12.09.2013, she was discharging her duties in the Noon Meal Centre continuously and was also paid the salary for the month of September 2013. She made a representation to the respondents on 13.11.2013, requesting to effect payment of salary, but the respondents failed to reply. She filed W.P.(MD)No. 20046 of 2013, challenging the impugned suspension order in Na.Ka.R3/34974/2013, dated 12.09.2013 and to quash the same. This Court directed the petitioner to make a representation to the first respondent. Accordingly, the petitioner submitted a



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representation on 23.12.2013. However, her representation was rejected and the suspension order was confirmed by the first respondent in Na.Ka.No.R3/34874/2013, dated 08.01.2014. Thereafter, she challenged the said impugned order by filing W.P. (MD)No.2240 of 2014 and that was dismissed as having become infructuous for the reason that the petitioner was subsequently terminated from service.

4. Further, the first respondent issued proceedings in Na.Ka.No.R3/34874/2013, dated 18.03.2016, ordering that the disciplinary action and the order of suspension against the petitioner was dropped and she was exonerated from the charges. Thereafter, the petitioner was posted at P.Ramachandrapuram, R.K.Memorial Kasthuri Primary School as Noon Meal organiser with the view to victimize her. This is in violation of rules in Rule XXXII (3). She submitted a representation to the first respondent to post her in the same School and claimed wages for the period from the date of suspension, i.e., 12.09.2013 to till the date of exonerating from the charges, i.e., on 18.03.2016. Thereafter, the first respondent issued proceedings in Na.Ka.No.R3/34874/2013, dated 02.03.2017, stating that since the petitioner has not joined in the vacant place at P.Ramachandrapuram, R.K.Memorial Kasthuri Primary School, she



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was dismissed from service. Challenging the impugned dismissal order, this Writ Petition is filed.

5. In response, the learned counsel appearing for the respondents submitted that the petitioner without informing the superiors left the Noon Meal Centre and she was not found in the Noon Meal Centre, when the inspection was conducted by the Personal Assistant to the District Collector on 12.09.2013. It was already found that the Noon Meal Centre was not kept clean and the quality of food was not good. Therefore, she was suspended from service on 12.09.2013. There is no material produced to show that she had prior permission from the authorities to attend the meeting in connection with election work. Since the petitioner avoided the efforts to serve the suspension order, it was affixed in the door of her house. She has not cooperated for the enquiry. Then, vide proceedings in Na.Ka.No.R3/34874/2013 dated 18.03.2016, her suspension order was revoked taking a lenient view of the matter, though the charges against her are true and she was directed to be transferred to R.K.Memorial Kasthuri Primary School. Despite the receipt of the transfer order, the petitioner has not chosen to join the duty in the transferred place. The third respondent submitted a report that the petitioner informed him that she would join only



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after she is posted to Panchayat Union Primary School, Keelarajakularaman and therefore, the impugned order was passed.

The petitioner was disobedient and in utter disregard to the orders of the superior authorities, she failed to join in the place where she was posted. There is no illegality or infirmity in passing the impugned order. Therefore, this petition is liable to be dismissed.

6. I have considered the rival submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

7. The main points in this case are:-

"(i) Whether the petitioner was willfully absent from attending her duties as Noon Meal Organiser at Panchayat Union Primary School, Keelarajakularaman on 12.09.2013?

(ii) Whether the suspension order issued against her for the alleged absence at the time of inspection by the Personal Assistant to the District Collect is correct?"



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8. The suspension order dated 12.09.2013 reads that when the Personal Assistant to the District Collector (Noon Meal) made a surprise inspection at Panchayat Union Primary School, Keelarajakularaman at about 12.30 p.m, the petitioner, who is the Noon Meal Organiser, was not found in the Centre. He found that the food was prepared for 79 students and the Noon Meal Centre was not kept clean and the quality of the food was also not good and that no sample food was kept separate. For this reason, she was placed under suspension on 12.09.2013 itself. The petitioner produced records to show that she was appointed as Booth Level Officer and that she attended the meeting held on 12.09.2013 with regard to the preparation of electoral rolls. It is not in dispute that the petitioner was appointed as Booth Level Officer. A letter in O.Mu.No.A5/1740/2015 dated 29.10.2015, shows that the petitioner had attended the meeting conducted by the Tahsildar, Rajapalayam in connection with electoral rolls on 12.09.2013 and she submitted Forms-6, 7, 8 and 8A. Another letter in Na.Ka.A5/1740/2019 dated 25.02.2016, shows that the Assistant Election Officer, Rajapalayam intimated the Personal Assistant to the District Collector that there was a special camp conducted in connection with correction of electoral rolls on 12.09.2013. The participants were informed through the Revenue Inspector about



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this meeting. The participants were required to attend the meeting between 11.00 a.m to 01.00 p.m. The petitioner attended the meeting after 12.25 p.m on 12.09.2013.

9. It is the case of the petitioner that the petitioner attended the meeting only after informing the third respondent and the same was also stated in the affidavit. This claim is not denied in the counter affidavit filed by the third respondent. These letters show that the petitioner attended the meeting conducted by the Assistant Election Officer, Rajapalayam on 12.09.2013 at about 12.25 p.m, when the Noon Meal Centre was inspected by the Personal Assistant to the District Collector (Noon Meal). Petitioner's absence from the noon-meal centre was only due to her other commitments in her official capacity to attend the work related to election. When that being the case, without hearing her and without asking any explanation, suspending the petitioner is an arbitrary exercise of power and impermissible in law. Thus, it is answered for these points that the petitioner justified her absence at the noon-meal centre at Panchayat Union Primary School, Keelarajakularaman on 12.09.2013 and her suspension is against the law and impermissible.



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10. Subsequent to the suspension of the petitioner, she submitted a representation, dated 23.12.2013 for canceling the suspension order, dated 12.09.2013. Her representation was rejected by the proceedings of the Personal Assistant to the District Collector, Virudhunagar in Na.Ka.R3/34874/2013 dated 04.06.2014. Then the District Collector, Virudhunagar, by proceedings in Na.Ka.No.R3/34874/2013, dated 18.03.2016, referring to the letter of the Tahsildar, Rajapalayam, dated 26.02.2016 and on finding that the petitioner attended election duty on 12.09.2013, dropped the charges against the petitioner and she was transferred to R.K.Memorial Kasthuribai Primary School, Thiruvilliputhur as a noon-meal organiser. The petitioner did not join duty in the said School and she gave a representation, dated 22.07.2016 to re-consider her transfer and post her at Panchayat Union Primary School, Keelarajakularaman. Finding that the petitioner had not obeyed the order of transfer and she had not joined duty in R.K.Memorial Kasthuribai Primary School, Thirvilliputhur as a noon-meal organiser, she was dismissed from service by the proceedings of the District Collector, Virudhunagar in Na.Ka.No.R3/34874/2013, dated 02.03.2017.



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11. The records produced by the learned Government Advocate appearing for the respondents shows that the petitioner had not joined duty in R.K.Memorial Kasthuribai Primary School, Thiruvilliputhur, despite being informed / served the transfer order. Disobedience to the transfer order, no doubt, is misconduct on the part of the petitioner. However, it is seen that the petitioner was dismissed from service without issuing any show-cause notice for disobeying the order of transfer and conducting any enquiry. The petitioner was imposed with the major punishment of dismissal from service. The punishment of dismissal from service, without issuing a show-cause notice, for disobeying the order of transfer and conducting oral enquiry is against the law. Therefore, this Court is of the considered view that the order of dismissal passed against the petitioner is liable to be set aside and accordingly, the impugned order of dismissal passed by the first respondent in Na.Ka.R3/34874/2013, dated 02.03.2017 is set aside. The first respondent is directed to issue fresh posting order to the petitioner to post her again in R.K.Memorial Kasthuribai Primary School, Thiruvilliputhur or to any other School within Virudhunagar District. The petitioner is entitled for all the monetary benefits during the period of her non-employment. The first respondent is directed to



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comply with the orders of this Court within a period of three months from the date of receipt of a copy of this order.

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12. In the result,

This Writ Petition is allowed by setting aside the impugned order of dismissal passed by the first respondent, dated 02.03.2017 and the first respondent is directed to issue fresh posting order to the petitioner to post her again in R.K.Memorial Kasthuribai Primary School, Thiruvilliputhur or to any other School within Virudhunagar District. The petitioner is entitled for all the monetary benefits during the period of her non-employment. The first respondent is directed to comply with the orders of this Court within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

**24.08.2022**

Internet :Yes  
Index :Yes / No  
ps/vji



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### Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The District Collector,  
Virudhunagar District,  
Virudhunagar.
- 2.The Personal Assistant to District Collector,  
(Nutritious Meals),  
Virudhunagar District,  
Virudhunagar.
- 3.The Commissioner,  
Srivilliputhur Panchayat Union,  
Srivilliputhur,  
Virudhunagar District.



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**G.CHANDRASEKHARAN, J.**

ps/vji

Order made in  
**W.P(MD)No.4558 of 2017**

**24.08.2022**